

**REMARKS**

By the present Amendment, claim 1 has been amended. Claims 17-23 have been cancelled. Accordingly, claims 1-16 remain pending in the application. Claim 1 is independent.

In the Office Action of September 14, 2010, claims 1-16 were rejected under 35 USC §101, as being directed to non-statutory subject matter. Regarding this rejection, the Office Action indicates that the claims recite the living body in different parts thereof with the electrode being attached to a portion on the head. Consequently, this results in the head being claimed as well. The Office Action further indicates that the claims refer to the brain wave electrode being mounted on the subject. The Office Action suggests that the claims should be amended to recite the electrode being "adapted to be attached" or "adapted to be mounted" to the head.

By the present Amendment, Applicants have amended independent claim 1, as suggested in the Office Action, to recite "a brain wave electrode configured to be attached to a third position representing a measurement position on the head portion of the subject...", and "configured to be mounted on the subject." These amendments correspond to the suggestions made in the Office Action for overcoming this rejection. To the extent that the Examiner identifies other instances of similar language, Applicants respectfully request contact by telephone in order to discuss suitable amendments for advancing prosecution of the application.

Applicants respectfully submit that, as amended, the presently pending claims satisfy the requirements of 35 USC §101. Withdrawal of this rejection is therefore respectfully requested.


For the reasons stated above, it is respectfully submitted that all of the pending claims are now in condition for allowance. Therefore, the issuance of a Notice of Allowance is believed in order, and courteously solicited.

If the Examiner believes that there are any matters which can be resolved by way of either a personal or telephone interview, the Examiner is invited to contact Applicants' undersigned attorney at the number indicated below.

**AUTHORIZATION**

Applicants request any shortage or excess in fees in connection with the filing of this paper, including extension of time fees, and for which no other form of payment is offered, be charged or credited to Deposit Account No. 01-2135 (Case: 983.46037X00).

Respectfully submitted,  
ANTONELLI, TERRY, STOUT & KRAUS, LLP.

/Leonid D. Thenor/   
Leonid D. Thenor  
Registration No. 39,397

LDT/vvr  
1300 N. Seventeenth Street  
Suite 1800  
Arlington, Virginia 22209  
Tel: 703-312-6600  
Fax: 703-312-6666

Dated: December 14, 2010